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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,755	04/23/2001	Vasily A. Topolkaev	44040-254221	4991

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EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/840,755	Applicant(s) TOPOLKARAEV ET AL.	
	Examiner Jennifer A. Boyd	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-14 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-14 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/31/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 31, 2006 has been entered. The Applicant's IDS, filed May 31, 2006, have been entered and have been carefully considered. In light of the reference disclosed on the IDS, Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account. The invention as currently claimed is unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2 – 6, 8 – 14 and 17 – 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhao et al. (US 6,514,602).

Zhao is directed to a water-flushable and biodegradable film as backsheets for disposable absorbent articles (Title).

As to claim 21, Zhao teaches a film comprising a biodegradable layer comprising 65 - 100% of substantially water insoluble biodegradable thermoplastic polymer and 0 – 35% of substantially water-soluble thermoplastic polymer (column 2, lines 60 – 69). It should be noted that the biodegradable thermoplastic polymer and water-soluble thermoplastic polymer are present in the same layer so the Examiner submits that a “blended mixture” is present as claimed by Applicant. Zhao teaches that the water soluble polymer can comprise polyethylene oxide and polyethylene glycol among other polymers (column 4, lines 55 – 69). Zhao notes that the film has the ability to be stretched (column 3, lines 20 – 35). Zhao also teaches that the MVTR is at least about 1000 g/m²/24 hours (column 7, lines 35 – 45).

As to claims 2 – 3, Zhao teaches that the MVTR is at least about 1000 g/m²/24 hours (column 7, lines 35 – 45) with no upper limit.

As to claim 4, Zhao teaches that the biodegradable polymer can comprise aliphatic-aromatic copolyesters (column 5, lines 40 – 69).

As to claim 5, Zhao teaches that the biodegradable polymer can be polylactic acid, polycaprolactone and 1,4-butanediol among other polymers (columns 5 – 6).

As to claim 6, Zhao teaches that the water soluble polymer can comprise polyethylene oxide, polyvinyl alcohol and polyethylene glycol among other polymers (column 4, lines 55 – 69).

As to claims 8 – 9, Zhao teaches that the film has an elongation at break of at least about 150% and most preferably at least about 250% (column 7, lines 10 – 30).

As to claims 10 – 13, Zhao teaches that the biodegradable layer comprises 65 - 100% if substantially water insoluble biodegradable thermoplastic polymer and 0 – 35% of substantially water-soluble thermoplastic polymer (column 2, lines 60 – 69), which overlaps with Applicant's claimed ranges.

As to claim 14, Zhao teaches that the biodegradable layer comprises 2.5 – 25% of the entire film thickness (column 8, lines 1 – 20) and the layer has a thickness of 0.1 to 0.3 mil (column 8, lines 25 – 30).


As to claims 17 - 18, Zhao teaches that the product can comprise disposable absorbent products, in particular, interlabial pads (column 3, lines 30 – 45).


As to claims 19 - 20, Zhao teaches that the film has an elongation at break of at least about 150% and most preferably at least about 250% (column 7, lines 10 – 30) with no upper limit and Zhao notes that the film has the ability to be stretched (column 3, lines 20 – 35).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jennifer Boyd
August 7, 2006


W. G. Ruddock
Primary Examiner
Tech Center 1700